

Introduced by Senator Ortiz

February 3, 2004

An act to add Chapter 8 (commencing with Section 105440) to Part 5 of Division 103 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1168, as introduced, Ortiz. Healthy Californians Biomonitoring Program.

Existing law establishes various programs for the protection of the public from exposure to toxins, including, but not limited to, the Childhood Lead Poisoning Prevention Act, administered by the State Department of Health Services, which imposes a fee upon manufacturers or persons who are responsible for lead contamination and applies the proceeds of the fee to reduction or elimination of the harm caused by the lead contamination.

This bill would similarly require the department to establish the Healthy Californians Biomonitoring Program to, with certain exceptions, assess a fee upon manufacturers or persons who are responsible for identifiable sources of toxic chemicals, as defined, and would authorize the department to adopt related regulations. This bill would list toxic chemicals that are subject to the bill and would authorize the department to adopt regulations to add other chemicals to the list.

This bill would establish an advisory panel to assist the department, and would provide for a phased implementation of the biomonitoring program with full implementation commencing after completion of initial pilot programs which would be required to be completed by January 1, 2008.

This bill would require the department to establish the fee and to annually adjust the fee, which the State Board of Equalization would be required to collect. The bill would establish the Healthy Californians Biomonitoring Fund for deposit of the fees and would, upon appropriation by the Legislature, apply the proceeds of the fee to the biomonitoring program, for the reduction or elimination of toxic chemical exposure and for the mitigation of the harm caused by the exposure. The bill would require the department to report to the Legislature and the public.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Chronic disease has reached epidemic proportions in the
4 United States. An estimated 125 million Americans, or 43 percent
5 of the population, have at least one chronic condition.
6 Approximately 60 million people, or 21 percent of the population,
7 suffer from multiple chronic conditions. Chronic illness also
8 affects the young. Roughly 20 million of America's children suffer
9 from at least one chronic health problem. Cancer, asthma, birth
10 defects, developmental disabilities, endometriosis, infertility, and
11 multiple sclerosis are becoming increasingly common, and
12 mounting evidence links incidence and severity of these diseases
13 to environmental toxicants.

14 (b) Cancer is the second most common cause of death after
15 heart disease and accounts for one out of every four deaths in
16 California. Breast and prostate cancer are the most commonly
17 diagnosed cancers, but lung cancer kills more people than breast,
18 prostate, colon, and rectal cancer combined. Together these
19 cancers account for more than one-half of all cancer diagnoses and
20 deaths. In addition, cancer is the leading disease cause of
21 childhood death.

22 (c) Approximately 3,000,000 Californians have asthma, nearly
23 700,000 of them children. Asthma is the most common chronic
24 disease in children, and is the leading cause of school absenteeism.
25 Asthma is most common among African-American and Hispanic
26 communities. Moreover, asthma rates continue to climb in



1 California, and in the central valley, where there are significant
2 concerns about air pollutants. More than 5,000 children in Fresno
3 alone have asthma. Asthma accounts for 14 million missed school
4 days each year.

5 (d) Chronic diseases cost the state billions of dollars per year.
6 For example, the estimated total cost of asthma in California is
7 approximately \$1.27 billion annually. The estimated lifetime costs
8 of medical and other treatment costs, plus lost productivity for all
9 affected individuals born in 1988 with one or more of the 18 most
10 common birth defects, exceeded \$1 trillion. Special education for
11 children with learning disabilities, estimated to be more than one
12 million California children, could carry an annual price tag of \$12
13 billion. Viewed in economic terms, and terms of treatment, care,
14 and lost productivity, the cost of chronic diseases is staggering.
15 What is unknown and perhaps unknowable, is the cost in human
16 terms, such as the physical and emotional suffering of the
17 individuals and families affected, and the loss of human potential
18 across the entire spectrum of population.

19 (e) Cancer affects all people regardless of race or ethnicity, and
20 more than 500,000 Americans were estimated to have died of the
21 disease in 2002. While cancer affects all population groups, there
22 are clear disparities in those who are affected in disenfranchised
23 communities. Those living in depressed socioeconomic situations
24 are even more prone to cancer death. For example,
25 African-Americans suffer both the highest overall cancer
26 incidence and mortality rates. African-American women have the
27 highest incidence rates of particular cancers, including colon and
28 rectal, and lung and bronchus cancers. Further, African-American
29 men have the highest incidence of, and cancer death rates from,
30 prostate, colon and rectal, and lung and bronchus cancers of any
31 ethnic or racial group. Hispanic women as a racial group have the
32 highest rates of cervical cancer in the nation and suffer from the
33 highest mortality rates from breast cancer. Asians and Pacific
34 Islanders have the highest incidence rates of liver and stomach
35 cancers and the third highest rate of breast cancer after Caucasian
36 and African-American women. Moreover, while Native American
37 Indians and Alaskan Natives experience relatively low levels of
38 cancer generally, women from these communities have the third
39 highest rate of death from lung and bronchus cancer, after
40 Caucasians and African-Americans.

(f) An estimated 85,000 chemicals are registered for use today in the United States. Another 2,000 chemicals are added each year. Some toxicological screening data exists for only 7 percent of these chemicals. More than 90 percent of these chemicals have never been tested for their effects on human health. Many of these chemicals are in daily use in cosmetics, hair products, pesticides, food dyes, cleaning products, fuels, and plastics. Moreover, many of these chemicals persist in the environment, and accumulate and remain in body fat, including breast tissue, for decades.

(g) Of the estimated 85,000 chemicals, many have been shown to be toxic to humans at various levels of exposure. The chemicals set forth in Chapter 8 (commencing with Section 105440) of Part 5 of Division 103 of the Health and Safety Code, represent those chemicals that the current scientific data have shown to cause health risks to humans even at very low levels of exposure, and to represent a serious health risk at higher levels of exposure. The Legislature finds that action is necessary to identify the presence of these chemicals in individuals and communities, to educate and counsel affected individuals and communities, and to develop strategies to prevent or minimize the harmful effects of the chemicals.

(h) The process of measuring the amount of chemicals in the body by examining blood, urine, body tissue, or breast milk is known as biomonitoring. The level of chemicals in a person's body is also referred to as their chemical "body burden." Body burden studies are essential tools that can help us detect and identify the presence of harmful chemicals that have been linked to adverse human health outcomes. Thus, biomonitoring can be a tool that may protect the well-being of individuals and support their ability to make informed decisions about their health.

(i) The data produced through biomonitoring can support efforts to improve public health by indicating trends in chemical exposures, validating exposure modeling and survey methods, supporting epidemiological studies, identifying disproportionately affected communities or particularly vulnerable communities, assessing the effectiveness of current regulations, and helping to set priorities for action. Furthermore, the systematic collection and analysis of biospecimens from individuals may also have significant public health implications since individual body burden data may be useful in extrapolating



1 the levels of exposure to environmental toxicants by a community
2 as a whole.

3 (j) Biomonitoring studies have shown human contamination
4 with a multitude of persistent chemicals is both chronic and
5 widespread. The first National Human Exposure to
6 Environmental Chemicals report, released by the Centers for
7 Disease Control and Prevention (CDC) in March 2001, revealed
8 the presence of 27 chemicals in the bodies of Americans. The most
9 recent CDC report, released January 31, 2003, documented the
10 presence of 89 environmental chemicals in the blood and urine of
11 Americans of all ages and races.

12 (k) Science has shown the reliability of breast milk as a marker
13 of human exposures to toxic chemicals and as a tool for monitoring
14 community health. Breast milk research has detected more than
15 200 toxic chemicals, including flame retardants, dioxins,
16 polychlorinated biphenyls (PCBs), DDT, and other pesticides. The
17 widespread presence of contaminants in breast milk is a major
18 cause for concern, not only for the health of babies and children
19 but also for the health of their mothers and, indeed, all women.
20 Like no other body fluid, breast milk reflects the internal
21 contamination of the target organ for breast cancer. Many of the
22 contaminants found in breast milk are known to cause mammary
23 tumors in animals. Germany and Sweden have national breast milk
24 monitoring programs and this research has broad public health
25 implications throughout the world. However, to date, relatively
26 little research has been conducted in the United States to determine
27 levels of contaminants in humans. The presence of toxins in breast
28 milk raises a special health concern for breast-feeding mothers
29 because the scientific data have shown that many toxins
30 concentrate in milk. However, research shows that mother's milk
31 with its species-specific optimal nutrition and its
32 antiinflammatory agents, including, but not limited to,
33 antioxidants, helps a child develop a stronger immune system and
34 other potential protections against environmental pollutants and
35 pathogens.

36 (l) Humans are exposed to toxic chemicals through a variety of
37 pathways, including the air they breathe, the food they eat, the
38 water they drink and bathe in, and the products they use.
39 Chemicals come to us from industrial processes, from storage sites
40 and toxic waste dumps, and from agricultural use, all of which

1 release chemicals into the soil, air, and water. Commercial
2 products manufactured by industry, including products used in or
3 around the home, contain chemicals that may pose exposure risks
4 for humans.

5 (m) The health and well-being of the public is assured in part
6 by the public's right to know about health hazards in the
7 workplace, home, and environment. This right-to-know principle
8 is supported in recent occupational and environmental law.
9 Individual and community education is a critical component of
10 any strategy to reduce the adverse health impacts from toxins.

11 (n) The priority public policy recommendation from the 2002
12 International Summit on Breast Cancer and the Environment, held
13 in Santa Cruz, California, was to establish a national
14 biomonitoring program in the United States using breast milk and
15 other biospecimens to assess community health. The 2003 report
16 by the CDC clearly demonstrates that public policy changes based
17 on biomonitoring and appropriate public health surveillance make
18 a difference. For example, since laws mandated removal of lead
19 from gasoline and paint, blood levels of lead in children have
20 plummeted with minimal inconvenience to industry. Efforts to
21 reduce exposure to secondhand tobacco smoke have reduced the
22 levels of cotinine, the metabolite of nicotine. Yet, detectable levels
23 of many long-banned chemicals, such as DDT and heptachlor,
24 persist, even in the bodies of those born after the bans. Alarminglly,
25 there are new commercial chemicals with the same characteristics
26 as these contaminants.

27 (o) The United States Congress provided the CDC with
28 funding to begin developing a nationwide environmental health
29 tracking network and to develop environmental health tracking
30 capacity within state and local health departments. California was
31 awarded a three-year grant to support the development of a
32 California Environmental Health Tracking Network. The
33 Legislature passed Senate Bill 702 (Chapter 538, Statutes of
34 2001), making California the first state in the nation to begin
35 planning a statewide environmental health tracking network for
36 chronic diseases and environmental hazards and exposures, in
37 order to monitor trends in health conditions and diseases that have
38 suspected links to environmental exposures. An SB 702 Expert
39 Working Group spent more than a year on a mandated report on
40 health tracking for the Legislature. In the report, the Expert



Working Group commended the Healthy Californians Biomonitoring Program and urged the establishment of a statewide biomonitoring program.

(p) Therefore, the Legislature declares that a statewide biomonitoring program will expand the possibilities for biomedical, epidemiological, and behavioral public health research. Since a statewide program of this nature has not been implemented to date, there is a need for California, an established leader in health promotion, health policy, and health care delivery and response, to encourage and fund this research, which is vital to the health and well-being of millions of citizens by developing prevention measures for a full spectrum of diseases related to environmental exposures.

SEC. 2. Chapter 8 (commencing with Section 105440) is added to Part 5 of Division 103 of the Health and Safety Code, to read:

CHAPTER 8. HEALTHY CALIFORNIANS BIOMONITORING PROGRAM

Article 1. General

105440. (a) This chapter shall be known, and may be cited, as the Healthy Californians Biomonitoring Program.

(b) For the purposes of this chapter, the following words have the following meanings:

(1) “Department” means the State Department of Health Services.

(2) “Director” means the Director of Health Services.

(3) “Division” means the Division of Environmental and Occupational Disease Control within the department.

(4) “Biomonitoring” means the process by which the presence and concentration of toxic chemicals and their metabolites are identified within a biospecimen as a means to assess the chemical body burden.

(5) “Biospecimen” means a sample of human blood, hair, urine, breast milk, body fat and other body tissue, or any other biophysical substance that is reasonably available as a medium to measure the presence and concentration of toxic chemicals.

(6) “Chemical body burden” means the number and concentration of toxic chemicals in a person’s body.

(7) “Toxic chemicals” means chemicals that are listed in Section 105460 or that are added to that list by the director pursuant to Section 105461.

(8) “Fund” means the Healthy Californians Biomonitoring Fund established pursuant to Section 105469.

(9) “Panel” means the Healthy Californians Biomonitoring Program Advisory Panel established pursuant to Article 2 (commencing with Section 105450).

(10) “Scientific Committee” means the Scientific Committee established pursuant to Article 2 (commencing with Section 105450).

(11) “Community Representative Committee” means the Community Representative Committee established pursuant to Article 2 (commencing with Section 105450).

(12) “Chemical reference level” means an average or mean level of chemical exposure, as prescribed by the United States Centers for Disease Control and Prevention or as determined by the department, pursuant to this chapter.

(13) “Harmful exposure level” or “harmful level of exposure” means a level of chemical body burden that is harmful, as determined by the department.

(14) “Appropriate case management” means consultation, health care referrals, followup counseling, and educational activities and materials, performed or provided by the appropriate person, professional, or entity, as determined by the division pursuant to this chapter, including, but not limited to, providing information on reference levels, possible routes of exposure, ways to reduce exposure, and state or local resources.

(15) “Community assessment” means collaboration with the Office of Environmental Health Hazard Assessment, Department of Toxic Substances Control, Air Resources Board, and other public and private entities as appropriate to conduct any or all of the following activities: environmental assessments of soil, water, air, food, homes, consumer products, or other aspects of a community in order to determine the persistent presence of a toxic chemical in the environment, in quantifiable amounts, that results in ongoing and chronic exposure to humans.

(16) “Community assistance” means appropriate case management at the community level and other community services as set forth pursuant to Section 105441, including, but not

1 limited to, the development of a community plan for the reduction
2 or elimination of the toxic chemical contamination or exposure.

3 105441. (a) The department, through the division, shall
4 establish the Healthy Californians Biomonitoring Program to
5 make services under this chapter available to persons and
6 communities on a statewide basis.

7 (b) The program shall have three major components as follows:

8 (1) Biomonitoring services offered pursuant to this chapter,
9 which shall take place on a strictly voluntary and confidential
10 basis. Results reported pursuant to this chapter shall not disclose
11 individual confidential information of participants.

12 (2) Community assessment services to be provided to cities,
13 counties, neighborhoods, or regions of the state.

14 (3) Appropriate case management for individuals, and
15 community assistance for communities.

16 105442. (a) The department shall implement this program in
17 three phases. Initially it shall be implemented as a pilot program
18 as set forth in subdivision (b) of Section 105455 in communities
19 selected by the department as geographically and demographically
20 representative of the state as a whole. The focus of the initial phase
21 shall be breast milk.

22 (b) The second phase shall be implemented as an expanded
23 pilot program as set forth in subdivision (c) of Section 105455.

24 (c) The third and final phase shall commence upon completion
25 of the initial and second pilot program. The initial and second pilot
26 program shall be completed by January 1, 2008. The third phase
27 shall be full implementation of the program on a statewide basis.

28 (d) After completion of the first phase, the Legislature deems
29 it important that breast-feeding mothers, infants, and expectant
30 mothers, remain a focus of this chapter because many toxic
31 chemicals tend to concentrate in breast milk, and because
32 breastfeeding remains the most healthy manner of sustaining a
33 young infant, notwithstanding possible milk contamination.

34 105443. (a) The department shall issue guidelines that
35 establish chemical reference levels for toxic chemicals pursuant to
36 this chapter. All participants shall be evaluated for the presence of
37 toxic chemical exposure as a component of the biomonitoring
38 process. The chemical reference levels shall be developed in
39 consultation with the advisory panel.

(b) In those instances in which a participant individual is identified with harmful levels of chemical exposure, the department shall ensure that appropriate case management services are provided. The department may contract with any public or private entity, including local agencies, to conduct the case management.

(c) In those instances in which a participant community is identified with harmful levels of chemical exposure, the department shall ensure that appropriate community case management services are provided. The department may contract with any public or private entity, including local agencies, to conduct the community case management.

(d) The department shall adopt regulations that set forth the types of community assistance that may be provided, including, but not limited to, any of the following:

(1) Funding for community education programs to help avoid exposure or reduce harmful exposures.

(2) Funding for research to determine alternative chemicals with less harmful effects so as to mitigate the harm caused by the chemical, with minimal impact upon industry. This option may be used only if necessary to reduce or eliminate the human exposure to the toxic chemical when other options are not reasonably available.

(3) In severe cases, funding for direct health care services if necessary to avoid an immediate and severe public health crisis due to harmful levels of toxic chemical exposures.

(e) The department shall collect and analyze all information necessary to effectively monitor appropriate case management and community assistance efforts. The department shall prepare a biennial report describing the effectiveness of the efforts. This report shall be made available to local health departments and the general public.

105444. (a) The department shall have broad regulatory authority to fully implement and effectuate the purposes of this chapter. That authority includes, but is not limited to, all of the following:

(1) The development of model protocols, or program guidelines, that address the science and practice of biomonitoring, to be utilized pursuant to this chapter and the procedures for changing those protocols to incorporate new and more accurate or

1 efficient technologies as they become available. The model
2 protocols shall comply with all of the following:

3 (A) They shall be developed utilizing a peer review process in
4 a manner that is participatory, community-based, and involves
5 representatives of the affected communities in the design,
6 implementation, evaluation, and communication of findings.

7 (B) They shall include, but shall not be limited to, guidelines
8 for ensuring confidentiality, informed consent, followup
9 counseling and support, and communicating findings to
10 participants, members of the affected and participating
11 communities, and the general public.

12 (C) For biomonitoring using breast milk, the protocols shall
13 include guidelines for individual consultation and community
14 education that ensure that parents understand the importance of
15 breastfeeding. The purpose of the guidelines is to ensure that the
16 program does not have any unintended unwarranted negative
17 effects upon a parent's decision whether to breastfeed.

18 (D) They shall be designed to apply, and shall apply equally, to
19 pilot programs conducted under this chapter unless individual
20 pilot programs have been granted written variances and
21 exemptions by the department as necessary to accomplish the
22 designed purposes of the pilot program.

23 (2) The designation of laboratories that are qualified to analyze
24 biospecimens and the monitoring of those laboratories for
25 accuracy.

26 (3) The development of reporting procedures by laboratories.

27 (4) Reimbursement for state-sponsored services related to
28 biomonitoring, appropriate case management, and community
29 assistance.

30 (5) Establishment of lower concentration levels than those
31 prescribed by the United States Centers for Disease Control and
32 Prevention for the purpose of determining if a person has received
33 a harmful level of exposure. These levels shall, to the extent
34 possible, be specifically tailored to the weight, sex, age, genetic
35 make-up, and other relevant traits or conditions of the person being
36 tested.

37 (6) Establishment of lower acceptable levels of the
38 concentration of a toxic chemical than those prescribed by the
39 United States Centers for Disease Control and Prevention for the

1 purpose of determining the need to provide appropriate case
2 management or community assistance.

3 (7) Development of appropriate case management protocols.

4 (b) Upon the completion of a pilot program, the department
5 shall, in consultation with the panel, adopt or revise the protocols,
6 as necessary, based on an evaluation of the pilot programs.

7 (c) Activities funded under this chapter shall comply with
8 biomonitoring protocol regulations adopted pursuant to this
9 chapter. The regulations shall also serve as a guide for all other
10 biomonitoring programs that are supported by state funds.

11 105445. (a) The department, as appropriate, and to the extent
12 that funds are available, may enter into one or more contractual
13 agreement with any of the following:

14 (1) One or more nongovernmental organization, health clinic,
15 community-based organization, or expert in a particular field, to
16 conduct any or all of the following:

17 (A) Develop model protocols.

18 (B) Develop or conduct training programs.

19 (C) Develop or conduct education or outreach programs.

20 (D) Develop resource materials.

21 (E) Recruit program participants.

22 (F) Serve as community adviser and liaison for the purpose of
23 implementing a pilot program.

24 (2) State or private laboratories with existing capability to
25 conduct necessary biomonitoring analysis.

26 (b) Pursuant to the California Public Records Act (Chapter 3.5
27 (commencing with Section 6250) of Division 7 of Title 1 of the
28 Government Code), which is designed to give the public access to
29 information in possession of public agencies, public records are
30 open to inspection at all times during the office hours of state and
31 local agencies and every person has a right to inspect any public
32 record. However, pursuant to the Information Practices Act of
33 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of
34 Part 4 of Division 3 of the Civil Code), personal or confidential
35 information generated by the biomonitoring programs, or other
36 information that is exempt from disclosure pursuant to the
37 California Public Records Act, shall not be disclosed. In this
38 regard, all information or data released under this chapter shall be
39 released in a format specifically designed to protect the personal
40 privacy of all participants.



1 105446. To the extent that funds are available pursuant to this
2 chapter, moneys may be allocated from the fund, upon
3 appropriation by the Legislature, for the purpose of strengthening
4 the department's laboratory capacity, as necessary for it to meet its
5 responsibilities under this chapter, as follows:

6 (a) Acquiring necessary laboratory instrumentation dedicated
7 to biomonitoring.

8 (b) Developing and adapting protocols.

9 (c) Creating the necessary infrastructure to collect, store, and
10 analyze biospecimens gathered through this program.

11 (d) Developing and retaining the necessary biomonitoring,
12 exposure assessment, and social science expertise.

13 105447. The department, through the division, and in
14 consultation with the panel, may to the extent that funds are
15 available, propose feasible alternatives to toxic chemicals found to
16 be harmful and prevalent pursuant to this chapter, including pilot
17 programs. The department may suggest to industry and other
18 producers of toxic chemicals alternatives that may be available to
19 reduce exposure to toxic chemicals.

20
21 Article 2. The Advisory Panel
22

23 105450. (a) By July 1, 2005, the department shall establish
24 the Healthy Californians Biomonitoring Program Advisory Panel.
25 The panel shall be composed of two committees, the Scientific
26 Committee and the Community Representative Committee, with
27 a combined membership of 13 members.

28 (b) The director shall appoint the chair of each committee from
29 its membership, who shall also serve as cochairs of the panel.

30 (c) The panel shall meet as often as it deems necessary, with
31 consideration of available resources, but at a minimum on a
32 quarterly basis.

33 (d) Members of the panel and the committees shall serve
34 without compensation, but shall be reimbursed from moneys in the
35 fund for travel and other necessary expenses incurred in the
36 performance of their duties under this chapter.

37 (e) The panel shall make recommendations to the division
38 regarding the design and implementation of a series of pilot
39 programs to be initiated by the department pursuant to this chapter

1 for the purpose of determining the best practices to be incorporated
2 into the statewide biomonitoring program.

3 (f) The division and the panel shall work and communicate
4 with the California Environmental Protection Agency and its
5 offices, the Primary Care and Family Health Division of the State
6 Department of Health Services, and other offices concerning
7 interagency information sharing and the synchronization of
8 environmental tracking and policy formation. However, personal
9 information, as defined in Section 1798.3 of the Civil Code, shall
10 not be shared without the informed consent of the individual to
11 whom it pertains.

12 105451. (a) The Scientific Committee shall be composed of
13 six members with background or training in interpreting
14 biomonitoring studies or in related fields or science, including, but
15 not limited to, the fields of health tracking, social science,
16 laboratory science, occupational health, industrial hygiene,
17 toxicology, epidemiology, environmental hazards, and public
18 health.

19 (b) The Community Representative Committee shall be
20 composed of at least seven members appointed by the director
21 from representatives of the following nongovernmental
22 organizations:

23 (1) One member from a breast cancer awareness organization.

24 (2) One member from an organization with a focus on
25 environmental health.

26 (3) One member from an organization with a focus on
27 environmental justice.

28 (4) One member from an organization with a focus on child
29 environmental health.

30 (5) One member from an organization promoting
31 breastfeeding.

32 (6) One member from a labor organization.

33 (7) One member from private industry with a verifiable and
34 consistent commitment to sustainable core business practices that
35 reduce environmental toxins.

36 (c) The director shall appoint the following additional
37 nonvoting members to the Community Representative
38 Committee:

39 (1) One representative from the California Environmental
40 Protection Agency.

(2) One member from each community that is participating in a pilot program pursuant to this chapter.

105452. (a) The Scientific Committee shall make recommendations to the panel on all of the following activities:

(1) In consultation with the Community Representative Committee, identifying chemicals to be tracked under this chapter for consideration as to whether a recommendation should be made to the director to add the chemical to the list of toxic chemicals pursuant to the process set forth in Section 105461.

(2) Choosing the biospecimens to be utilized.

(3) Determining the number of people to be included in any pilot program pursuant to this chapter.

(4) Designing a sampling scheme and measurement method.

(5) Collecting and analyzing the data.

(b) The Community Representative Committee shall make recommendations to the panel on all of the following:

(1) Selecting study sites for any pilot programs and identifying community partners for each pilot program pursuant to this chapter.

(2) Review of model protocols, training program, and educational and outreach materials.

(3) Review of the draft legislative reports and assessment of the policy implications of the findings.

(4) Assisting with the interpretation and dissemination of findings to biomonitoring program participants and to the general public.

(c) The Community Representative Committee shall consider the criteria and recommendations generated by the department's Biomonitoring Planning Project, the California Environmental Health Tracking Network, and the California Environmental Health Tracking Program when making its recommendations.

Article 3. Pilot Programs

105455. (a) The department, through the division, and in consultation with the panel, shall identify and establish at least two pilot programs, to be followed by the establishment of the statewide permanent program pursuant to this chapter.

(b) (1) The department shall first establish a pilot program to include a series of three community-based biomonitoring

1 programs using breast milk. This pilot program shall identify the
2 chemicals that are present in breast milk and investigate
3 relationships between specific environmental toxins and
4 geographic areas, and initiate plans to minimize or eliminate
5 exposure to these contaminants. This pilot program shall assist in
6 refining protocols for materials development, site identification,
7 program planning, design, implementation, and dissemination of
8 findings.

9 (2) All materials developed pursuant to the pilot program shall
10 do both of the following:

11 (A) Be designed to ensure that parents are well informed about
12 all of the benefits of breastfeeding so that the program does not
13 result in an unjustified fear of toxins in milk leading to an
14 unwarranted decision by parents to avoid breastfeeding.

15 (B) Be developed and disseminated in a culturally appropriate
16 manner and translated as needed.

17 (c) The second pilot program shall be implemented to test the
18 protocols on a larger scale, including more communities and a
19 broader biospecimen regimen for the purpose of determining
20 whether any adjustments to the protocols are warranted prior to
21 full implementation of the statewide program.

22 105456. (a) The department may conduct additional pilot
23 programs as necessary to provide information focused on a
24 specific community, chemical, or group, as necessary to provide
25 a basis of knowledge for adjustment in the protocols or other
26 aspects of the program.

27 (b) Any pilot program shall be implemented in a minimum of
28 three economically, racially, and geographically diverse
29 communities within the state.

30 (c) A culturally competent training program that
31 communicates the benefits of assessing chemical body burdens
32 shall be developed for health care providers, health educators, and
33 other program administrators to aid in the implementation of the
34 pilot programs.

35 (d) Educational and outreach materials that effectively
36 communicate the benefits of measuring chemical body burdens to
37 community health shall be developed and disseminated to
38 program participants and community members where pilot
39 programs are conducted. Resource materials shall communicate
40 scientific findings to participants of biomonitoring studies and

members of the affected or participating communities. Materials shall include, but not be limited to, information that discusses and explains all of the following:

- (1) Body burden data, findings, and analysis generated through the biomonitoring programs.
- (2) Possible routes of exposure.
- (3) Population-based health effects and toxicity.
- (4) Steps being taken by local, state, and governmental entities to regulate, minimize, and eliminate exposures to toxicants.

Article 4. Toxic Chemicals

105460. The following chemicals are toxic chemicals subject to this chapter and any manufacturer or person who is responsible for identifiable sources of the chemicals shall pay the fees assessed by the department as set forth in this chapter:

- 1-Naphthol
- 1,1-dichloro-2,2-di(4-chlorophenyl) ethane
- 1,1 Dichloroethane
- 1,1,2-trichloro-1,2,2-trifluoroethane
- 1,2-dichlorobenzene
- 1,2-dichloroethane
- 1,2,4,5-tetrachlorobenzene
- 1,3-butadiene
- 1,4-dichlorobenzene
- 2-Isopropoxyphenol
- 2-Isopropyl-4-methyl-6-hydroxypyrimidine
- 2-Naphthol
- 2-phenylphenol
- 2,4-Dichlorophenoxyacetic acid
- 2,4-Dichlorophenol
- 2,4 and 2,6-Toluene Diisocyanate
- 2,4,5-Trichlorophenoxyacetic acid
- 2,5-Dichlorophenol
- 3,5,6-Trichloro-2-pyridinol
- 4-methyl-benzylidene camphor (4-MBC)
- Acetone
- Acetaldehyde
- Acrolein
- Alachlor

1	Aldicarb
2	Aldrin
3	Antimony
4	Atrazine
5	Arsenic
6	Barium
7	Benzophenome-3 (BP3)
8	Benzene
9	Benzene hexahydride
10	Beryllium
11	Bisphenol A
12	Bromoform
13	Bromochlorotrifluoroethane
14	Butyl alcohol
15	Cadmium
16	Carbofuranphenol
17	Carbon tetrachloride
18	Cesium
19	Chlordane
20	Chloredecone
21	Chloroform
22	Chlordimeform
23	Chlorobenzilate
24	Cobalt
25	DBCP
26	Dicofol
27	Dieldrin
28	Diethylditiophosphate
29	Diethylphosphate
30	Diethylthiophosphate
31	Dimethylbenzene
32	Demethyldithiophosphate
33	Dimethylphosphate
34	Dimehylthiophosphate
35	1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (ocdd)
36	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (hpcdd)
37	1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin (hxcdd)
38	1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin (hxcdd)
39	1,2,3,7,8-Pentachlorodibenzo-p-dioxin (pncdd)
40	2,3,7,8-Tetrachlorodibenzo-p-dioxin (tcdd)



1	DDT/DDD/DDE
2	EDB
3	Endrin
4	Endosulfan
5	Ethyl alcohol
6	Ethyl butyl ketone
7	Ethylbenzene
8	Ethylene dibromide
9	Ethylene dicloride
10	Ethylene Trichloride
11	Fluorotrichloromethane
12	Formaldehyde
13	1,2,3,4,6,7,8,9-Octachlorodibenzofuran (ocdf)
14	1,2,3,4,6,7,8-Heptachlorodibenzofuran (hpcdf)
15	1,2,3,4,7,8-Hexachlorodibenzofuran (hcxdf)
16	1,2,3,6,7,8-Hexachlorodibenzofuran (hxcdf)
17	1,2,3,7,8,9-Hexachlorodibenzofuran (hxcdf)
18	1,2,3,7,8-Pentachlorodibenzofuran (pnCDF)
19	2,3,4,6,7,8-Hexachlorodibenzofuran (hxcdf)
20	2,3,4,7,8-Pentachlorodibenzofuran (pnCDF)
21	2,3,7,8-Tetrachlorodibenzofuran (tcdf)
22	Gamma-hexachlorocyclohexane
23	HCH
24	Heptachlor
25	Heptachlor Epoxide
26	Hexabromocyclodecane
27	Hexachlorobutadiene
28	Hexachlorobenzene
29	Hexachlorocyclohexane
30	Homosalate (HMS)
31	Isodrin
32	Isopropyl alcohol
33	Lindane
34	Malathion dicarboxylic acid
35	Manganese
36	Mercury
37	Methoxychlor
38	Methyl bromide
39	Methyl chloroform
40	Methyl Cyclopentane



1	Methyl ethyl ketone
2	Methyl propyl ketone
3	Methyl Parathion
4	Methylene Chloride
5	Mirex
6	Molybdenum
7	N,N-diethyl-3-methylbenzamide
8	Octachlorostyrene
9	Octyl-dimethyl-PABA (OD-PABA)
10	Octyl-methoxycinnamate (OMC)
11	Ortho-Phenylphenol
12	Oxychlorane
13	1-Hydroxybenzo[a]anthracene
14	3-Hydroxybenzo[a]anthracene
15	1-Hydroxybenzo[c]phenanthrene
16	2-Hydroxybenzo[c]phenanthrene
17	3-Hydroxybenzo[c]phenanthrene
18	3-Hydroxychrysene
19	6-Hydroxychrysene
20	3-Hydroxyfluoranthene
21	2-Hydroxyfluorene
22	3-Hydroxyfluorene
23	1-Hydroxyphenanthrene
24	2-Hydroxyphenanthrene
25	3-Hydroxyphenanthrene
26	1-Hydroxypyrene
27	Para-Nitrophenol
28	Paraquat
29	Parathion
30	3,3,4,4,5,5-Hexachlorobiphenyl (hxcb)
31	3,3,4,4,5-Pentachlorobiphenyl (pnch)
32	3,4,4,5-Tetrachlorobiphenyl (tcb)
33	PCB 28
34	PCB 52
35	PCB 66
36	PCB 74
37	PCB 99
38	PCB 101
39	PCB 105
40	PCB 118



1	PCB 128
2	PCB 138
3	PCB 146
4	PCB 153
5	PCB 156
6	PCB 157
7	PCB 167
8	PCB 170
9	PCB 172
10	PCB 177
11	PCB 178
12	PCB 180
13	PCB 183
14	PCB 187
15	Pendimethalin
16	Pentachlorobenzene/pentachloronitrobenzene
17	Pentachlorophenol
18	Pentabromodephenyl ether
19	Perchlorobenzene
20	Perchloroethylene
21	Perflourinated octane carboxylic acid (PFOA)
22	Perflurooctane Sulfonate (PFOS)
23	Mono-benzyl phthalate
24	Mono-butyl phthalate
25	Mono-cyclohexyl phthalate
26	Mono-ethyl phthalate
27	Mono-2-ethylhexyl phthalate
28	Mono-isononyl phthalate
29	Mono-n-octyl phthalate
30	Platinum
31	Simazine
32	Tetrabromobisphenol A
33	Thallium
34	Toluene
35	Toxaphene
36	Trans Nonachlor
37	Trichloromethane
38	Triclosan
39	Trimethylene
40	Trifluralin



1 Uranium

2 Vinyl benzene

3 105461. In addition to the list of toxic chemicals set forth in
4 Section 105460, the department may adopt regulations to include
5 additional chemicals within the scope of this chapter if all of the
6 following criteria are met:

7 (a) The chemical is recommended to the department for
8 inclusion within the scope of this chapter by the Scientific
9 Committee pursuant to Section 105452.

10 (b) The director finds both of the following:

11 (1) The scientific data demonstrates that the chemical is toxic
12 to humans when absorbed into the human body, even at low levels
13 of exposure.

14 (2) Human exposure to the chemical presents a significant
15 public health risk.

16
17 Article 5. Fiscal Provisions
18

19 105465. The program implemented pursuant to this chapter
20 shall be fully supported from the fees collected pursuant to this
21 chapter. Notwithstanding the scope of activity mandated by this
22 chapter, in no event shall this chapter be interpreted to require
23 services necessitating expenditures in any fiscal year in excess of
24 the fees, and earnings therefrom, collected pursuant to this chapter.
25 This chapter shall be implemented only to the extent fee revenues
26 are available for expenditure for purposes of this chapter.

27 105466. (a) There is hereby imposed a fee on manufacturers
28 and other persons formerly, presently, or both formerly and
29 presently engaged in the stream of commerce of toxic chemicals
30 or products containing toxic chemicals, or who are otherwise
31 responsible for identifiable sources of toxic chemicals, which have
32 significantly contributed historically, contribute currently, or both
33 have significantly contributed historically and contribute
34 currently to human toxic chemical exposure.

35 (b) The department shall, by regulation, establish specific fees
36 to be assessed on manufacturers and other persons formerly,
37 presently, or both formerly and presently engaged in the stream of
38 commerce of toxic chemicals or products containing toxic
39 chemicals, or who are otherwise responsible for identifiable
40 sources of toxic chemicals which, as determined by the

1 department, have significantly contributed historically, contribute
2 currently, or both have significantly contributed historically and
3 contribute currently to human toxic chemical exposure.

4 105467. (a) To the maximum extent practicable, the fees
5 shall be assessed on the basis of both of the following criteria:

6 (1) A manufacturer's or person's past and present
7 responsibility for environmental toxic chemical contamination.

8 (2) A manufacturer's or person's market share responsibility
9 for environmental toxic chemical contamination.

10 (b) No fee shall be assessed upon any retailer of toxic chemicals
11 or products containing toxic chemicals.

12 (c) No fee shall be assessed upon any manufacturer or person
13 for the consequences of lead toxicity subject to Chapter 5
14 (commencing with Section 105275).

15 (d) The fee shall be assessed and collected annually by the State
16 Board of Equalization. The first payment of these fees shall be due
17 on or before April 2005.

18 105468. (a) The annual fee assessment shall be adjusted by
19 the department to reflect both of the following:

20 (1) The increase in the annual average of the California
21 Consumer Price Index, as recorded by the Department of
22 Industrial Relations, for the most recent year available.

23 (2) The increase or decrease in the number of participants who
24 are found to have exposure to toxic chemicals or harmful levels of
25 exposure pursuant to this chapter.

26 (b) No fee shall be assessed upon a party if that party
27 demonstrates to the department's satisfaction, providing
28 scientific, academic, and peer-reviewed research, that the party
29 merits an exemption from this chapter because the party's conduct
30 did not contribute in any manner to the toxic chemical
31 contamination, or the product containing the toxic chemical, with
32 which it is currently or historically associated, does not currently,
33 or did not historically, result in quantifiably persistent human toxic
34 chemical exposure.

35 105469. (a) The fee imposed pursuant to this chapter shall be
36 administered and collected by the State Board of Equalization in
37 accordance with Part 22 (commencing with Section 43001) of
38 Division 2 of the Revenue and Taxation Code. The fees shall be
39 deposited in the Healthy Californians Biomonitoring Fund, which
40 is hereby established in the State Treasury. All fees collected

1 pursuant to this article shall be deposited in the fund. Moneys in
2 the fund shall, upon appropriation by the Legislature, be expended
3 for the purposes of this chapter, including the State Board of
4 Equalization's costs of collection and administration of fees. All
5 interest earned on the moneys that have been deposited into the
6 fund shall be retained in the fund.

7 (b) The fees collected pursuant to this chapter and the earnings
8 therefrom shall be used solely for the purposes of reducing or
9 eliminating toxic chemical exposure and for the mitigation of the
10 harm caused by the exposure as set forth in this chapter. The
11 department shall not collect fees pursuant to this chapter in excess
12 of the amount reasonably anticipated by the department to fully
13 implement this chapter. The department shall not spend more than
14 it collects from the fees and the earnings in implementing this
15 chapter. In no fiscal year shall the department collect more than ten
16 million dollars (\$10,000,000) in fees, as adjusted pursuant to
17 Section 105468.

18 (c) The adoption, amendment, or repeal of a regulation for fee
19 assessment and collection, including subsequent amendments or
20 adjustments, authorized by this chapter is hereby exempted from
21 the rulemaking provisions of the Administrative Procedure Act
22 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
23 Division 3 of Title 2 of the Government Code). However upon
24 adoption the regulation shall be filed with the Secretary of State
25 and printed in the California Code of Regulations.

26 105470. (a) Costs associated with departmental
27 administration of the program, shall not exceed 10 percent of the
28 entire amount appropriated from the fund in any fiscal year.
29 Administrative costs of the State Board of Equalization shall not
30 exceed 5 percent of the entire amount appropriated from the fund
31 in any fiscal year.

32 (b) It is the intent of the Legislature, in subsequent legislation,
33 to appropriate and to deposit into the fund, the sum of one million
34 five hundred thousand dollars (\$1,500,000) from the General
35 Fund, to the Controller for allocation as loans, to be fully repaid
36 by the fund using fees collected within that same fiscal year as
37 appropriated so as to yield a revenue-neutral appropriation, as
38 follows:

39 (1) One million dollars (\$1,000,000) to the department, for the
40 purposes of adopting regulations to establish the fee schedule



1 authorized by this chapter. It is the intent of the Legislature that the
2 State Board of Equalization repay the amount of this appropriation
3 with interest at the pooled money investment rate, from fees
4 collected pursuant to this chapter.

5 (2) Five hundred thousand dollars (\$500,000) to the State
6 Board of Equalization, for the purposes of implementing this
7 chapter. It is the intent of the Legislature that the State Board of
8 Equalization repay the amount of this appropriation with interest
9 at the pooled money investment rate, from fees collected pursuant
10 to this chapter.

11 (c) The State Board of Equalization and the department shall
12 jointly develop a system to track the amounts received into the
13 fund from the individual assessments and ensure that the fees
14 assessed with regard to a toxic chemical are appropriately applied
15 toward program implementation in a manner that is reasonably
16 proportional to the harm caused by the toxic chemical. The
17 department, in consultation with the board, shall establish
18 standards and protocols for purposes of this subdivision that may
19 include categorization of like chemicals for purposes of group
20 tracking.

21
22 Article 6. Reporting
23

24 105475. (a) To ensure public confidence in, and access to, the
25 data generated by the biomonitoring program, it is vital that
26 program findings be made available to the public in a timely,
27 understandable and transparent manner.

28 (b) The division shall disseminate biomonitoring findings to
29 the general public via appropriate governmental and NGO Web
30 sites. All health and environmental exposure data shall be
31 provided to the general public in a summary format to protect the
32 confidentiality of program participants. Within 30 calendar days
33 after the division releases its interim and final report to the
34 Legislature, the results of these studies shall be made available to
35 the public.

36 105476. (a) By January 1, 2007, the department shall provide
37 a report to the Legislature summarizing the biomonitoring pilot
38 programs, including program descriptions, methodology,
39 program outcomes, and assessment of the goals of the various
40 biomonitoring activities conducted pursuant to this chapter. The

1 report shall include an assessment of the response by industry and
2 others to the department's recommendations regarding
3 alternatives to toxic chemicals pursuant to Section 105447.

4 (b) By January 1, 2009, the department shall, in consultation
5 with the panel, develop and forward a report to the Legislature
6 regarding the establishment of the permanent statewide California
7 biomonitoring program based on the findings of the pilot
8 programs. The report shall include a summary of the biennial
9 reports prepared pursuant to Section 105443. By January 1,
10 annually thereafter, the department shall, in consultation with the
11 panel, forward a report on the permanent statewide program,
12 policy, and study findings.

